Government discloses any information which he has received by means of or for the purposes of a census return' be added at the end of sub-clause (b)"

Seconded by Mr. Nidiry.

Carried.

The consideration of the Bill being over, Mr. Subba Aiyar moved that the Bill as settled by the Council be read again on a future day of which notice should be given..

Seconded by Mr. G. Parameswaran Pillai.

Carried.

THE FOREST REGULATION AMENDMENT BILL.

Mr. Subba Aiyar:—

Sir,

I beg to present the report of the Select Committee on the Forest Regulation Amendment Bill. At the time of introducing the Bill, I explained to the Council how the various amendments in the Bill bore upon the provisions of the Regulation and how they were absolutely necessary. Some of the non-official Members objected to some of the provisions of the Bill and the Bill was referred to a Select Committee. The objections to the Bill were carefully considered by the Committee, and out of deference to the wishes of the non-official Members, the Bill was considerably modified by the Committee. I find that there are very many amendments to be moved today. I do not therefore think it necessary to make any comment upon the Select Committee's report. I think it will be enough if I explain the position of the Select Committee as each amendment is moved. I therefore beg to move that the Bill, as revised by the Select Committee, be taken up for consideration at once".

Seconded by Mr. Raman Menon.

Carried.

CLAUSE 1.

Mr. Kayalam Parameswaran Pillai, in moving that the Clause be deleted, spoke as follows:—

"Sir,

"I beg to move that this Clause be deleted entirely and that the existing definition of "forest produce" be retained. In introducing the Amendment Bill, the learned Mover, Mr. Subba Aiyar, said that this new definition does not (by its operation) create any new forest offence or add to the list of forest offences already created and that its object is only to make the meaning originally intended by the Legislature clear. In my humble opinion, the new definition of "forest produce" which includes in it timber of royalties *wherever* found *is* an innovation, an unnecessary innovation, and in any event, fraught with dangerous consequences. The result of it, as I shall presently explain to you, is only to place a dangerous weapon in the hands of the Forest and Police Departments, which may, with facility and impunity, be used to harass innocent people.

In considering this question, we have to bear in mind that there are two sorts of offences with respect to timber and forest produce created by the Forest Law, which have to be kept distinct. The one is the *transport* of timber or forest produce without a pass (created by Section 33 of the Regulation and the rules passed thereunder), and the other is the mere *possession* of royal trees or of any forest produce which is a royalty [created by Section 34 (c)]. It is to this latter that I would draw the special attention of the Council in this debate. Section 34 (c) reads thus:—

"Whoever is found in possession of such trees [*i. e.* royal trees] or of any forest produce which is a royalty, without having honestly obtained it, shall on conviction before a Magistrate be liable to imprisonment which may extend to six months or fine which may extend to five hundred rupees or to both."

It will be noticed that, under it, it is not an act or commission that is made penal. The mere passive state of being in possession is sufficient to convict the possessor unless he can show (and the burden of it is on him) that he came by it honestly. This provision is an extraordinary enactment and the like of it you do not find either in the Indian Forest Act or the Madras Forest Act which is taken as the model in many respects. It is with reference to this extraordinary penal provision that the definition of "forest produce" is sought to be revised so as to bring more things under it, that is to say, to make the possession of even still further things penal. As the learned Mover has told the late Council, the High Court has ruled, with reference to the above mentioned Section 34 (c), that the mere possession of sawn materials of teak wood is not an offence, as the Section provides only for the illicit possession of *trees* (but not timber) and of forest produce, and as sawn materials cannot be said to be *trees* and, though timber, cannot yet be "forest produce", under the definition thereof, without *evidence* of the timber having been *found in* or *brought from*, a forest. This ruling appears to have created a flutter in the dovecotes of the Forest Department, and they have requested Government to make the mere possession of even timber of royal trees, wherever found, penal; and my learned friend, the Mover, therefore, to achieve that end, seeks to amend the definition of "forest produce" and wants to make royal timber a forest produce, wherever found, be it

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in a palace or a cottage or in the city or the village. I do not pause to consider whether the desired end will be really achieved by this innovation. But taking it at its declared object as explained by the learned Mover, the result of this new definition is dangerous to the safety and peace of innocent subjects of the State. The new definition makes timber of royal trees, wherever found, a forest produce. And what is timber? Timber is defined in Section 2 as including "all wood whether cut up or fashioned or hollowed out for any purpose or not", so that anything made of wood, say, a door-post, a carriage-shaft, a roof-rafter and, in fact, any article of furniture, would be *timber* and if it is made of wood of royal trees, it would, without anything more, be *forest produce* also. Hence a teak-wood sofa, a black-wood chair, an ebony walking stick or a sandal-wood jewel-case would all be forest produce. The result of their being forest produce is that, under Section 52, they would all be presumed to be Government property, that is to say, your sofa, your chair, your walking stick, your jewel-case would all be presumed to be the property of Government, until proved otherwise; and under Section 34(c), the Section with reference to which the new definition is sought to be made, the mere, *possession* of them is penal and is sufficient to entitle the possessor to get six months' imprisonment. The net result, then, of all these is to place a dangerous weapon in the hands of unscrupulous members of the Forest and Police Departments to harass innocent people. I shall illustrate how it is. Suppose, one fine morning, a Forest Officer, the veriest subordinate of the Department, a Watch Pillai or a Peon, goes to the house of any one of us here and takes hold of the teak and blackwood furniture there, say, the chairs, the tables, the cots, the sofas, the almirahs, the boxes, etc., and says "My dear Sir, these are all forest produce; please tell me how you got all these and satisfy me that you got them all honestly." What will you do? How are you going to satisfy him? They might have been with you for years; they might have come to you from your father or grand-father. Any of them might be an heirloom. Any of them might be a present to you from a friend. Or they might have been purchased in open market at odd times and transported to your house. It is not illegal and has not been illegal to purchase them; it is not illegal and has not been illegal to transport them even without a pass. You are not expected to preserve evidence of the various ways in which you got all these. In fact, it will be next to impossible to satisfy even an honest man in regard to these *every day and possibly, also ancient, things*. And in the case of the Watch Pillai or Peon who has come to harass or blackmail, he *will not be* satisfied. Directly, the articles are all seized and taken away under Section 36, and, to add to your denuded house, a prosecution also ensues. And the probability is that you may not be able to satisfy the Criminal Court as to the origin and derivation of your title to these things—things in regard to which the only title under ordinary law need not be, and has not ordinarily been, anything more than mere possession: and you will be convicted and you will forfeit your arictles also, you yourself being in the dock and unable even yourself to swear to your possession. Suppose for a moment that you have been so fortunate as to satisfy the Court and that you are let off and the articles given back. Who will answer for all the annoyance, the trouble and the pain of mind, and possibly damage also, caused to you? Not the Watch Pillai or Peon, and not the Government either. For they are all exempt, both civilly and criminally, under another proposed amendment of this very Regulation, unless you prove bad faith, which again is another impossibility, especially when the presumption of law in regard to the ownership of forest produce (under which comes your teak and blackwood furniture) is in favour of Government. If, however, you put a few coppers, off and on, in the pockets of the Watch Pillai and Police Constable, you are, of course, safe. Thus, even the most innocent and most respectable (and probably only they) will be at the mercy of the Forest and Police Departments. By the amended definition, you are creating a dangerous weapon indeed, a veritable sword of Damocles, hanging over the head of every honest and honourable subject of the State.

Could all these have been originally intended by the Legislature? Whether intended or not, is it now necessary to forge such a dangerous weapon and hand it over to the elastic hands of the Forest and Police Officers? I do not for a moment suggest that royalties should not be protected. So long as there *are* to be royalties, it is to the interest of the people and the Government to protect them. But what I contend for is that ample protection is already afforded by the law as it stands. All that the High Court has said is that the *mere possession* of royal timber without anything more, is no offence. But the Forest Law makes the unauthorised cutting of, and other interference with, royal trees, wherever found, an offence. Unauthorised transport of them and their timber is also, and could be, made an offence under the existing law. Even mere possession of trees so long as they can be called trees and before their conversion into timber can also be an offence. As for the matter of that, *possession* of even timber of royalties (as of any other thing) is punishable *if* the *prosecution* can prove it to have been dishonestly obtained; for, such a case will be covered by the general Criminal Law, the Penal Code. The learned Mover, when introducing this Amendment Bill, quoted *in extenso* the High Court ruling and then said:—

'The result of this judgment will be that if a large number of trees are felled from a Government Forest and if such trees are axed or sawn and brought to the nearest compound situated within a few yards from the limits of the forest, the person in possession cannot be convicted, even though he is in possession of a large quantity of timber which he cannot account for. Again, if a teak tree stands in a private compound and such tree is felled or sawn in the same compound or in the neighbouring compound, the owner cannot be convicted.'

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But I venture to assure you, Sir, that he *can be* convicted, if the facts alleged are *proved*. He will be guilty for the felling, under Section 34 (a), and for the transporting, under the rules passed under Section 33. If the Forest Department are not able to detect in proper time or prove their allegations, the remedy is not to change the law but to change the men who are to work the Department.

To support the amended definition, the learned Mover of the Bill appears to lay much emphasis on the fact that the definition in the Indian Forest Act is quite similar. But I beg to say that not only is this no justification but it is also quite misleading to rely upon the provisions of the Indian Forest Act in this particular respect. For "under that Act (as also under the Madras Forest Act), the mere *possession* of timber is no offence, and in fact there is no Section there corresponding to our Section 34 (c), so that the dangerous consequences of the Indian definition when applied to Travancore, as pointed out before, do *not* ensue in British India. There, it is only the *transport* of timber without a pass that is made an offence; and that under rules to be passed by the Government there; and in the rules, the wide, all-comprehensive meaning of "timber" may be curtailed and limited as in the rules here (see rule 4 of the rules under Section 33), in such a way as to exclude wrought timber like articles of furniture, etc. Even otherwise, there, you need take care only when the timber has to be *transported* and then you need only get a pass. In any event, the *mere holding in possession* of any timber does not appear to be any offence there, as it is here under Section 34 (c). And, in fact, the very portion of the speech of Sir Philip Hutchins in the Imperial Legislative Council with reference to the definition of 'forest produce' in the Indian Forest Act, cited and relied on by my learned friend, the Mover says that the only effect of the definition 'will be to enable Government under Chapter VII to levy a duty on these special products [this Chapter is not in our Regulation] and under Chapter VIII [V of our Regulation], to control their transport without being under the necessity of showing in every instance that the particular log or consignment was produced in the indefinite something known as a forest.' Thus, only *transport* was sought to be controlled there, and what may not cause hardship or give room for oppression there, does cause hardship and does give room for oppression here, when applied not to *transport* but to mere every-day *possession*, as is expressly declared to be the object here. Under the circumstances, it is rather surprising that the armoury of the Indian Forest Act should have been ransacked to find a weapon to be used for a purpose for which it was not intended. I feel no hesitation therefore in urging that the proposed definition of 'forest produce' should be abandoned as unsuited, unnecessary and uncalled for."

Mr. G. Parameswaran Pillai, in seconding the amendment, said :—

'Sir,

When introducing this Amendment Bill, the learned Mover prefaced that 'the object of the amendment was not to impose unnecessary restrictions upon or to interfere in any way with the liberty of the subject and add to the list of Forest offences, but only to make the meaning originally intended clear.' But I regret to point out that the passing of this particular amendment and a few other important amendments which we shall have to deal with in the course of this session will lead unfortunately to results which the learned Mover has neither anticipated nor intended. It is certainly consoling to note that the definition of the term 'forest produce' so as to include *all timber*, wherever found, has been improved upon by the Select Committee by restricting its scope to *timber* of royalties 'whether found in or brought from a forest or not.' But I hope to be able to show that even the amendment as revised by the Select Committee ought not to be accepted by this Council.

The importance of the question demands a closer examination of the grounds on which this amendment is rested. Before doing so, however, I wish to point out the difference in the connotation of the terms 'timber' and 'tree'—a distinction the existence of which has mainly influenced Government to bring in the proposed amendment. Whereas 'timber' includes 'trees when they have fallen or have been felled and all wood whether cut up or fashioned for any purpose or not', the term 'tree' though said to include palm, bamboo, etc., is given only the natural and ordinary meaning attached to it, *viz.*, it continues to be tree so long as it stands in the earth in its natural state, or if it has fallen or been felled, so long as its natural state is not appreciably altered; or in other words timber includes wood wrought or cut up or fashioned or hollowed out, besides a tree fallen or felled. 'Timber' is a much more comprehensive term than 'tree'. Whereas then the term 'forest-produce' now applies only to timber found in or brought from a forest, the amendment under discussion wants it to be made applicable to *timber* of royalties whether found in or brought from a forest or not. Although the learned Mover is of opinion that his definition of forest produce is no innovation but that it only makes the original intention of the Legislature clear, it is obvious that so long as the definition of the term 'timber' is left as it is, the amending provision will cover a much larger field than was intended by the framers of the existing Regulation. The learned Mover himself concedes that, under the existing law, dishonest possession in the case of royalties, and transport without a pass in the case of all timber, are made penal. What, then, has necessitated the introduction of an amendment further restrictive of private individual rights?

Firstly, certain apprehensions seem to have been raised by a recent decision of the High Court which declared that mere possession of sawn materials of teak wood by a person without any evidence to establish that the same was either found in a forest or brought from a forest

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was no offence under the Forest Regulation. The Court could not convict the accused as having been found to be in unauthorised possession of forest produce since the sawn materials though timber were not found in or brought from a forest. The accused could not be convicted under Section 34 (c), since whoever is found in possession of any *tree* which is a royalty without having honestly obtained it is alone liable under that Section ; and sawn materials cannot be deemed to be tree but only timber. Consequently it has been reported to Government that, unless the Regulation is amended, the whole country will soon be devoid of teak. Now let us consider whether the above decision has prejudicially affected either the royalties or the general conservation of forests. I submit not. The apprehensions of the learned Mover in this respect are unfounded. The defect lies not in the existing Regulation but, if at all, in the administration thereof. The only question that arose for decision in the case referred to above was whether the petitioner could be deemed to have been found in illicit possession of forest produce, merely because he was found in possession of a few sawn teak materials without anything more. It was held by the High Court and rightly too, that the above circumstance by itself did not amount to an offence unless it was affirmatively established that they were found in a forest or brought from a forest. This does not in the least lay down that persons who fell or otherwise damage *trees*, classed as royalties, are immune from liability under Section 34 of the Regulation. The terms of Section 34 are clear on the point. No doubt, in respect of royalties, the penal provision can be enforced only in cases where the defendant has been found in possession of tree of a royalty without having honestly obtained it. The Section does not cover the cases of all classes of timber in the comprehensive sense given to it under Section 2 of the Regulation, but is confined to one class of timber, viz., tree—whether fallen or felled down.

The learned Mover suggests that, as the result of the above decision, if a teak tree stands in a private compound and such tree is felled or sawn in the same compound or the neighbouring compound, the owner cannot be convicted unless the same was found in a forest or brought from a forest. Clearly not. Teak being a royalty, Section 34 clearly provides for convicting those who fell or otherwise damage a royalty against the rules framed by Government and those who are found to be in dishonest possession of such trees, either felled or in a condition recognisable as trees. The learned Mover complains that *timber* of royalties standing in private compounds can never be 'forest produce' under the Regulation. True ; why should it be otherwise. Section 31 which defines royalties and Section 34 which imposes penalties, do only refer *to trees* and not timber of all classes, and ample provision is made to safeguard royalties. This must be deemed to have been deliberately done. There is absolutely no reason why all classes of timber should be deemed to be royalty. Materials worked out of wood which was originally a royal tree cannot still continue to be regarded as royalties. The whole question appears to have been exhaustively dealt with by able and eminent men who had admittedly considerable experience of local conditions, and they decided that the provisions relating to royalties need apply only to such timber as can be regarded as trees, when fallen or have been felled. The learned Mover presumes that there is *no doubt that the Legislature meant to include timber in Clause (c) Section 34, for, he says, if tree meant a standing tree it is no offence to be in possession of such standing tree.* He has reiterated the above view more than once in the course of his speech when he introduced this Bill. There is nothing whatever to suggest that the framers of the existing Regulation intended to apply the penal provisions of Section 34 to all classes of timber, in other words, to cases where the trees have been so converted as not to be recognised as trees. It is erroneous to suppose that, by "trees" in Section 34 (c), the Legislature meant *timber* as otherwise it would mean only standing trees. Tree has not been defined anywhere as standing tree. Trees continue to be trees so long as they are capable of being recognised as such even though they have fallen or have been felled.

In the above circumstances, it is clear that the High Court has not laid down anything which is unreasonable or contrary to the intentions of the Legislature as gatherable from the various Sections in the Regulation. It ought to be the duty of the Forest officers to detect a case of felling or otherwise damaging a royalty as soon as such an act is committed and they should not wait until the wood is converted and fashioned out of recognition into some article of furniture and is sold away or otherwise disposed of, and then pursue the material alleging it was once upon a time a royalty and that the possessor thereof is one who is therefore liable under the law.

Secondly, the argument that the intention of the Legislature was to make Section 34 (c) applicable to all classes of timber of royalties is equally untenable. It is certainly unfair to suppose that the Legislature once intended to lay down something which is materially different from what is indicated by express provisions in the Regulation. The fact appears to be that the difference between the scope of the existing provisions and that of the amending provisions does not seem to have been prominently borne in mind when it is stated that the proposed amendment only makes the original intention of the Legislature clear.

Reference was made in this connection to Section 52 of our Regulation and the remarks of the Select Committee that framed the existing Regulation. I agree with the learned Mover in considering that Section 52 of the Regulation has largely influenced the framers of this Regulation in adopting the definition of 'forest produce,' so as to include timber only found in forest or brought from a forest. It appears to have been deliberately done. Section 52 raises a presumption in respect of all 'forest produce' including of course timber found in a forest or brought from a forest. The learned Mover complains that timber of royalties is not mentioned

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in that Section. Why should it be mentioned? 'Forest produce' includes a particular class of timber. The case of royalties stands on a different footing and it has been specially provided for. They refused deliberately to extend the application to all classes of timber even of royalties. Since timber was made to include not only trees fallen or felled but also all wood fashioned or hollowed out for any purpose, it was thought undesirable and dangerous to extend the presumption, even in respect of such articles as technically come under the term timber. But even with regard to such articles as are found in a forest or when they are proved to have been brought from a forest, the presumption at once arises that they form 'forest produce' and the defendant ought to prove that he came by the same by honest means. This is only just and reasonable.

Another argument urged by the learned Mover is that, when the Regulation requires that no timber, whether from a forest or not, shall be transported without a pass and that, teak found in a private garden within the State, belongs to Government and that the owner can fell or remove it only with the previous sanction of Government, there can be absolutely no hardship in demanding, from a man in possession of teak timber, evidence of how he came by it. There again, my submission is that the distinction between teak timber and tree has not been duly borne in mind. If of course, the term 'forest produce' is meant to include only teak tree or any tree which is a royalty whether found in a forest or not, we have no complaint whatever. The danger arises when the term is made applicable to all classes of timber of royalties, *viz.*, even to wood which has been wrought or fashioned or hollowed out. Even in the matter of restrictions in the transport of timber, Government have in framing rules under Section 33 taken good care to exempt timber fashioned into doors and windows, articles of furniture, boxes, bales etc. So it is not correct to say that there is any rule to the effect that no timber in the sense understood by the learned Mover shall be transported without a pass. What I urge is that a general provision that all timber of royalties shall be deemed to be 'forest produce' so as to come within the purview of Section 52, is highly objectionable. It is therefore more reasonable to suppose that the original deliberate intention of the Legislature was to adopt the definition of forest produce as found in the Madras Act in preference to that in the Indian Act. And Section 52 must have strengthened them in this view, for, if the presumption laid down therein is made applicable to all classes of timber of royalties as forest produce, the result will be disastrous. Irresponsible subordinates of the Forest Department will have ample scope for harassing private individuals. It has also to be noted in this connection that the learned Mover will presently ask us to accept the provision that no Civil suit or other proceeding shall be taken against any public servant or Government for any act done in good faith under this Regulation. Suppose for a moment that we accept the definition of forest-produce as put forward by the learned Mover. The result will be that every one of us possessing some article of furniture in teak or blackwood shall have to be in perpetual dread of a prosecution under the Forest Regulation, and the presumption at once arises that it is the property of Government, and it shall be our lookout to be ready without a moment's notice to furnish such evidence as may be necessary to affirmatively establish that we or our predecessors in interest had obtained the same by lawful means. It was certainly not the intention of the Legislature to apply the above presumption in respect of all articles which have ceased to be trees and which passed into the class of timber known as wood fashioned or hollowed out for any purpose. I need hardly submit that the learned Mover is asking too much when he desires this Council to accept an amendment of this nature.

The last but oft-repeated argument relied on by the learned Mover is that a similar provision is contained in the Indian and Mysore Acts and in the Madras Act. And although the Madras Act and the Regulation were passed after the Indian Act, this Council preferred to follow—deliberately too—the Madras Act. I beg to refer in this connection to the speech of Mr. T. Raja Ram Row when he introduced the Forest Bill which eventually became Regulation II of 1068.

He said—'While the working of the forest lands is causing much heart-burning and complaint in British India, the introduction of a Bill for passing a law on the same subject in this country requires special explanation.....Almost all those delicate questions which seem to cause so much heart-burning in the working of the Forest Laws of British India were fully gone into by the Committee and the Regulation was prepared on the lines of the Madras Act'.

The above words show that the Madras Act was deliberately followed here in preference to the Indian Act. The Madras Act though amended subsequently still contains the definition as in our Regulation. In conclusion, therefore, the grounds on which the learned Mover rested his amendment have been found to be shaky. The High Court decision does not really handicap Forest administration, provided the Forest authorities discharge their duties promptly and with efficiency. The original intention of the Legislature was in no way different from what can be gathered from the express provisions of the Regulation. The existence of similar provision in the Indian Act confers no additional strength and the amendment must stand or fall on its own merits. Let us not change merely for change's sake, especially when, as in this case, it is for the worse and is attended by very many dangerous consequences. I would therefore request this Council to reject Clause 1 in this Bill and retain the old Section".

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Mr. Subba Aiyar.—

"Sir,

I beg to oppose the amendment. I have been attending very closely to the arguments of Mr. Kayalam Parameswaran Pillai, the Mover of the amendment, and those of Mr. G. Parameswaran Pillai. I submit that I have fully explained at the time of introducing the Bill the various points that could possibly be raised against the definition of 'forest produce'. It has been suggested that the definition, if passed, will work considerable hardship on the subject. In dealing with the definition, we have to take into consideration two salient facts. In the first place, the object of the Forest Law is to prevent smuggling from Government forests with a view to safeguard the property of Government. Secondly, wherever it may be found in the State, *i. e.*, whether it is within the forests or outside, whether in a registered holding or unregistered holding, a royal tree, as defined in the Regulation, is the property of Government. With reference to all trees, the Regulation makes the transport without a pass an offence. In order that the officer may be satisfied that a particular timber which is being transported through the country has not been smuggled from Government forests, such a provision is absolutely necessary, especially in Travancore, where we find large areas of forests intermingling with registered areas. It is very easy to smuggle timber from Government forests. Provision is therefore made in the Regulation to prohibit the transport of timber without a pass."

Royal trees being the property of Government, wherever found, whether in Reserved Forests or in private compounds, dishonest possession of the timber of such trees is made an offence. I am not here concerned with the question whether certain trees should be classed as royal trees or not. This is a matter that has been settled long ago and admittedly the royal trees continue to be the property of Government. If you grant that royal trees wherever found belong to Government, then, in order to prevent smuggling effectually and to safeguard the interests of Government, it is necessary to retain the definition as revised by the Select Committee. The argument that the definition is not found in the Madras Forest Act is misleading, for the analogy is not complete. There are no royal trees in Madras. That being the case, no analogy between the Madras Act and Travancore Regulation can be drawn. It cannot be said that what is not found there cannot be introduced in our Forest Law. We have, as I said, to recognise that the timber of royal trees wherever found belongs to Government. No man is allowed to remove a tree without the permission of Government. No man can get possession of it unless he purchases it from Government direct or from those who have purchased it from Government. Under these circumstances, it has been thought highly necessary to preserve the right of Government with reference to timber of royal trees. If a person is in possession of timber of trees which could only belong to Government, it will be very easy for him to explain how he came by it. It is on this principle that the definition, as it stands, has been put in. It is easier for a person in possession than for an officer of the Forest Department to say from what particular source the timber has been obtained. In such cases, the working of the law will not cause any hardship, and if a man wants to be in possession of royal timber honestly, there will be no difficulty in his getting a sale note from the vendor. If, on the other hand, possession of smuggled timber is attempted, it may lead to some difficulty. Both my friends Messrs. Kayalam Parameswaran Pillai and G. Parameswaran Pillai object to the provision on the ground that it may lead to difficulty, as even articles of furniture may be included within the definition. I may assure them that Government or the Head of the Department will take care to see that the Regulation is worked in a reasonable and proper manner. I will cite one instance relied upon by my friends. Under Section 33, a pass is necessary for transport of all kinds of timber, whether it is of royal trees or otherwise. Government have ruled that, with reference to articles of furniture or wrought timber, it will not be necessary to have a pass, in order that people may not be put to unnecessary trouble. The apprehension of my friends that the very moment that this Bill is passed into law, everybody's house in Trivandrum will be searched by the Police or Forest officers is absolutely unfounded. So far as royal trees are concerned, everyone of the non-official Members, who were present when the Bill was introduced, said that it was to the interest of Government to see that the timber of royal trees received a separate treatment. All were agreed at the time that the definition in the original Bill should be restricted to the timber of royal trees, and all of them were of opinion that with reference to other timber I had not made out a case. Though to my mind there is absolutely no harm in putting all timber under 'forest produce', yet, the Select Committee, out of deference to the wishes of the non-official Members restricted the amendment of the definition of 'forest produce' only to royal trees. It is also noteworthy that in Nedumangad and Pathanapuram, *i. e.*, in areas which are remote from towns and which are not thickly populated, there are private workshops dealing in teak and blackwood. If the people thus dealing in large quantities of teak or blackwood, should not be asked to explain how they came by it, it will be impossible to work the Regulation. As Mr. Venugopala Aiyer said, 'we cannot have a guard for every tree.' If men, who purchase timber of royal trees from Government or from others, would only take care to secure a sale note, no inconvenience will be felt by the public. It is said that if a man is in possession of timber in the case quoted by me when I introduced the Bill, the accused may be charged for felling. If near a forest, timber of royal trees is found sawn in a compound, how can we get evidence of felling? How is it possible to say that it was the tree that was

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felled from a particular place that has been converted into timber ? And can a man be convicted without such evidence for that offence ? It is rather too much to say that, if a man who could not be expected to possess, say, 50 logs of wood, is found in possession of them, he should not be asked to account for such possession. It is all a question as to how the law is worked. I have read the Proceedings of this Council with reference to the existing Regulation. Two eminent men, well acquainted with the conditions of the country did say that timber must be put in the first class. But they thought ultimately that Section 52 would be enough. I have shown in my speech when introducing the Bill that the object they had in view has not been secured. It is with a view to make the meaning clear that the new definition has been put in. The possession of royal timber or forest produce is an offence even now. It is for the person in possession to establish that he came by it by proper means. For these reasons, I submit that the amendment moved by my friend Mr. Kayalam Parameswaran Pillai cannot be accepted.

Mr. Nidiry.—

"Mr. Subba Aiyar said that royal trees should be protected. The question is whether the rights and conveniences of the subject should not be equally protected. Timber, as we find in the Regulation, is defined, as including trees when they have fallen or have been felled, 'and all wood whether cut up or fashioned or hollowed out for any purpose or not'. The addition now proposed to be made to the above definition is surely productive of dangerous consequences and should be deleted. Another point that we should be very careful about is in entrusting powers to the subordinate officers of the Police and the Forest Departments. They are always likely to abuse the powers. In my humble opinion, the existing Regulation gives sufficient protection to royal trees. My learned friend Mr. Subba Aiyar has been telling us that there are certain workshops in Pathanapuram and Nedumangad, carrying on trade in smuggled and illicit timber. If that is so, a few more hands of the protective staff should be located in those places, or some other local arrangements should be made. With these observations, I beg to support the amendment moved by my friend Mr. Kayalam Parameswaran Pillai."

Mr. Kayalam Parameswaran Pillai.—

"Sir,

Mr. Subba Aiyar said that there are no royal trees in the Madras or Indian Forest Act, requiring such control of their possession and that therefore the fact that there is no provision there to penalise unauthorised possession, as here, is no reason for not having it here. Exactly so. That is just what I also say. The fact that 'forest produce' is defined in a particular way in the Indian Forest Act is no reason for defining it similarly here. One of the chief arguments to support the amended definition has been that the Indian Forest Act contains the same definition. Apparently, Mr. Subba Aiyar wanted to suggest that, if the law could be worked there without hardship, it could be worked here also. This argument must necessarily fall to the ground in as much as no possession of trees or timber will be penalised or affected by the application of the definition. What is controlled and intended to be controlled there, is only *transport* of timber. But what is sought to be controlled here by the definition is not transport (for that is already controlled) but mere *possession* of certain class of timber This in effect, as already explained, penalises possession even of articles of furniture, such as tables, chairs, etc., which is not, and can never be the case in British India, where mere possession, apart from transport, is no offence under any circumstances. The argument, therefore, that because a similar definition exists in the Indian Act and that it does not work hardship cannot hold good for a moment, and there is no meaning in looking up to the Indian Forest Act for any support.

The next point raised by Mr. Subba Aiyar was that royal trees are the property of Government and that, as such, it must be easy for the person in possession of royalties to explain how he came by them. This is no doubt true to some extent, so long as the trees remain trees and have not become converted into timber. If a person has been in possession of timber which includes furniture made of it, for a number of years, and if he is now called upon to explain how he came by it, it will be impossible for him to explain and it will be unfair and inequitable also to call upon him to explain, especially because trade in teak and other royal wood materials was not being prohibited all these years, and people have been freely passing possession from hand to hand of teak and other materials without taking care to preserve evidence as to how the possession was come to. It has been said by Mr. Subba Aiyar that, if we keep the cash bill given for the purchase of such timber materials, we can be saved by producing the bill as evidence. But it can hardly be sufficient and can never be conclusive evidence. Suppose, for instance, one gets a bogus bill given by X or Y who cannot be found or traced, will that bill be sufficient ? The mere fact that a bill is produced cannot be sufficient or conclusive defence in a criminal prosecution. The acceptability of the defence will always be a question of fact. When a Court of law, especially a Criminal Court of law, is called upon to find whether timber has been obtained honestly, the Court will have to, and invariably will, look to the evidence of possession from its very inception, that is to say, from the time the royal trees passed out of Government hands by sale or otherwise. If a man wants to show that royal timber was obtained honestly, he will have to prove the derivation of title thereto from its very inception, and it

LIBRARY ARCHIVES Kerala Legislative Assembly

will not be enough merely to produce the cash bill. Is it possible, I ask, for a man to prove how the timber of his furniture passed originally out of Government hands? Speaking with reference to the cash bill, just take this instance. Very often in Trivandrum, when a European gentleman goes home, his furniture is auctioned and freely purchased by the people here. If they are called upon after a decade to prove how they got the furniture, it will be impossible for them to satisfy a strict Court of law, unless they go to the very source from which the timber of that furniture originally passed out.

My friend conceded that, if the proposed provision is worked strictly and to the very letter, it may cause hardship. But he said that Government could be relied upon to work the law in a reasonable spirit. The intentions of Governmet may no doubt be reasonable. But it is not the Government that work the law, nor even the head of the Department, nor even a highly paid officer always. The person who actually works the law is a subordinate like a Watch Pillai or peon drawing but a petty salary. Under such circumstances, can it be expected that he will work the law reasonably? And in any event, are we to be entrusted to the tender mercies and varying discretion of such low paid subordinates? It has to be remembered that this is not a question of giving power to Government to make rules to carry out the provision of law as in the case of transport of timber which is controlled only by rules passed by Government, under the powers granted by the Regulation (Section 33). In the case of possession of articles made of royal wood with which we are concerned, the Regulation itself makes it an offence, so that even if the Government want to help the people and to minimise the hardship, it will be impossible for them to do so, as the law will remain law and as there is no provision for any rules being made to vary it.

As regards the allegation that there are workshops in the Nedumangad and Pathanapuram taluks, carrying on trade in smuggled timber, all that I can say is that, if there is such trade, it is the duty of the officers of the Forest Department to bring the offenders to book. It will be very easy for them if they are doing their duty properly to see that only honestly obtained timber is *transported* to the workshop, for, even as the law stands now, no timber, whether of royal wood or not, can be transported without a pass. And I believe no pass will be given to cover dishonestly obtained timber. I may go further and say that, if such workshops are a real danger, impossible to be remedied by the existing law, you might pass some law requiring keepers of such workshops to take out licenses for dealing in timber in such a way that they will be liable to explain every piece of timber that is found in their workshops. And it may not be hard or difficult to explain how they came by the timber, for, they must have got possession of the timber at a near date of the same having passed out of the hands of Government. Further, being business men, they must be deemed to have regular accounts showing the purchase and possession of their stock including timber.

I would therefore press that the amended definition be dropped."

Mr. Kayalam Parameswaran Pillai's amendment was put to the vote and lost.

Mr. Kayalam Parameswaran Pillai moved that the following explanation be added at the end of the Clause :—

"*Explanation*:—'Timber' above does not include any wood that has been wrought or fashioned, such as rafters, beams, reepers, doors, windows, articles of furniture, boxes or boats."

He said :—

"I have already explained the hardship that might be caused by the adoption of the definition of the term 'forest produce' as given in the Bill. Now that the definition has been accepted by the Council, the present amendment is intended to minimise its evils. Although, under Section 33, Government are empowered to make rules in regard to the transport of timber including articles of furniture, still it is seen from a perusal of the rules, that the Government thought it necessary not to apply them to fashioned timber. If this is so, is it necessary to control the possession of timber which has become furniture? Is it not hard to do so? The transport is a more serious matter and, even in that case, the Government are controlling only timber which has not become furniture. Why then control *possession* of furniture, why not make an explanation of the kind suggested by me in the Section itself? So far as the transport of timber is concerned, the Government are in a position to work the rule without hardship to the people, because it is the Government that make rules. In the case of *possession* of timber in the shape of furniture, if Government really want to avoid hardship to the people, they will be powerless to do it, because, the Section itself makes it an offence and not any rule that has been made by Government. Besides, the Clause takes away a right that is being already enjoyed by the people. Till now, articles made of teak and other royal wood timber can be transported from place to place under the rules. Once this Bill is passed, even that would be difficult. Under Rule 5, it is not lawful to transport timber or forest produce without a pass. So far as timber is concerned, we are saved by the definition of the term in the rule passed under Section 33 of the Regulation. There, timber does *not* include furniture.

LIBRARY ARCHIVES Kerala Legislative Assembly

But under the amended definition, articles of furniture made of royal wood would be covered by the term 'forest produce,' so that articles made of royal wood cannot be transported without a pass as they have become 'forest produce'. Till now, the people were transporting them without a pass. Is not this taking away the right enjoyed till now and is it not a hardship? It is therefore necessary to make it clear by the Regulation itself that timber does not include wrought timber."

Mr. G. Parameswaran Pillai.—

"As it is, the definition includes all classes of timber, even though of royal trees. I submit that it is essential that the term 'timber' ought to be defined so as not to include wood, wrought, cut up or fashioned. The only substantial argument that has been advanced by Mr. Subba Aiyar on this point is that we may presume that Government officers will work the law in a reasonable spirit. I think it is too much to presume it in the case of low paid officers of the Government Department who are to work the law."

President:—"I understand that the fears expressed by the Mover and the seconder in regard to the working of the provision by the officers of the Department are imaginary. At any rate, they may exist in theory. If the amendment is *restricted* to doors, windows, articles of furniture and boxes, I think it may be accepted."

Mr. Mackie :—

"Will it include any sort of boxes? Will it include tea and rubber boxes?"

President:—"They will also be exempted."

Mr. Subba Aiyar:—

"These boxes do not require a pass."

Mr. Kayalam Parameswaran Pillai.—

"May I add 'such other articles,' so as to include beams, rafters and other articles that have become fixtures?"

President:—"That will be most dangerous."

Mr. Kayalam Parameswaran Pillai.—

"All right. Half a loaf is better than no bread. I agree to the modification suggested."

Mr. Subba Aiyar :—

"I accept the amendment as modified above with the addition of the words "for the purpose of sub-clause (*a*) of Section 2 (*c*)," immediately after the word 'timber'."

The amendment was accepted by the Council with the above modifications.

Mr. Kayalam Parameswaran Pillai, in moving that the words 'not hereinbefore mentioned' in sub-clause (*b*) (i) be deleted, said,—

"These words are taken from the Indian Forest Act, according to which, 'forest produce' includes timber, charcoal, peat, wood oil, etc., in Clause (*d*) of that Act. It seems to me that these words refer to such produce as wood oil, etc. We have not got it in Clause (*a*) of our definition. Timber which alone is mentioned in Clause (*a*) cannot be produce or part of a tree."

President:—"Forest produce" includes timber. If there is any real danger in the adoption of this expression, there is no objection to the amendment being accepted. Can you point out concrete instances specifying the danger that might ensue by the use of the expression in question?"

Mr. Kayalam Parameswaran Pillai :—

"The amendment is more or less verbal and I do not press it."

The amendment was permitted to be withdrawn.

CLAUSE 3.

Mr. G. Parameswaran Pillai, in moving that the Clause be deleted, said :—

"The learned Mover has revised the existing Regulation so as to bring it almost in conformity with the provisions in the Forest Act. It is noteworthy that the change proposed is not supported in this particular by the Indian Act. I should consider it sufficient to prohibit fresh clearings instead of clearings of any sort under all conditions. The amending provision may prove to be a source of hardship in some cases. Under Section 4 of the Regulation, 'when it is proposed to constitute any land a Reserved Forest, the Dewan shall publish a Notification' declaring such proposal. Then, under Section 6, the Forest Settlement Officer issues

LIBRARY ARCHIVES Kerala Legislative Assembly

a proclamation, specifying certain particulars. Under Section 7, during the interval between the proclamation and final Notification declaring the limits of the area reserved as forest, it is provided that no fresh clearing shall be made. This is done with the specific object of preventing further accrual of rights. Suppose, the proposal to constitute any particular area proclaimed as above as Reserved Forest is abandoned. According to the amendment proposed, during the interval referred to above, no clearing of any nature can be made, not even in the area which was once upon a time cleared for cultivation but which requires a second clearing though on a smaller scale. As the law stands, no fresh clearing need be allowed lest further rights accrue. But why should existing rights be sought to be impaired without pressing public necessity. Under the Indian Act, fresh clearings are allowed under certain conditions. It says that no fresh clearing shall be made except in accordance with rules prescribed by Government. There is no total prohibition of the sweeping nature contemplated by the amendment sought to be made by the Clause".

Seconded by Mr. Raman Tampi.

Mr. Subba Aiyar.—

"What is meant is that there should be no clearing for the purpose of cultivation after a proclamation under Section 6 is issued. It has been interpreted by some that a second clearing is not a fresh clearing. If there was a clearing in the area once and if, 5 or 6 years after, there is another clearing, it was argued that this would not amount to a fresh clearing. There were some cases where the accused were acquitted on this plea. What the Section requires is that, when a proclamation has been issued, no clearing should be done by a person except with the permission of the Forest Department."

Mr. G. Parameswaran Pillai.—

"My point was that there might be certain areas already cleared and that a subsequent clearing might be allowed in respect of them. So far as any fresh area notified under Section 4 is concerned, no clearing need be allowed. Again, there is no provision made in regard to cases where the proposal to constitute a Reserved Forest may fall through and, in such cases, the party will be unnecessarily put to loss. In view of this I think that the word 'fresh' should be retained."

The amendment was put to the vote and lost.

CLAUSE 7.

Mr. Kayalam Parameswaran Pillai, in moving that the word 'nine' be substituted for 'six' in line 2 of the Proviso to Section 17 A, said:—

"When a suit has to be filed against the Government, three months' notice has to be given under the Civil Procedure Code. Apparently, when the provision was made by the Mover, he was prepared to give six months' time to the party to decide whether a suit should be filed or not. It is only reasonable that the period of three months should also be added to the period of six months."

Seconded by Mr. Raman Tampi.

Mr. Subba Aiyar.—

"The cause of action arises from the date on which the notice is served on the claimant. The time allowed by the Clause is, I think, enough. I doubt if it is desirable to extend the time when he has got notice of the decision. It is always desirable that persons aggrieved should file a suit against Government as early as possible. In the case of acquisition of land by Government, if the party is not satisfied as to the award of the Land Acquisition Officer, he may move him to make a reference to the District Court. But, this has to be done within two months. So also in this case, he may file a suit before the expiry of the time allowed, *viz.*, six months. Anyhow, I leave the matter to be decided by the Council."

President.—

"I may say at the outset that, after all, this is not a very material question. If the Members are very particular, Government have no objection to accept the amendment. But, where is the justification for it? If a person, who really or in his imagination has a grievance, does make up his mind to institute a suit, he has to send a notice of suit. It is after making up his mind to sue that he sends up the notice, and he has a period of three months, and then, after the expiry of these three months, he has also another period of three months left to him. If a man does not decide whether he should file a suit or not even within that period, it seems to me that no useful purpose will be served by giving nine months to such a vascillating person."

Mr. Kayalam Parameswaran Pillai.—

"My idea is that six months will be required to take legal advice and to find out money etc., and then to issue notice, which practically is the very first step of the suit".

The amendment was put to the vote and lost.

LIBRARY ARCHIVES Kerala Legislative Assembly

CLAUSE 10.

Mr. Kayalam Parameswaran Pillai moved that the paragraph proposed to be newly added by sub-clause 3 to Section 21 of the Regulation be deleted, and said :—

"Section 21 penalises only the person who sets fire to the forest. But the proposed new para provides that for the guilt of *one* man the rights of pasturage of *all* men should be suspended. This is very hard."

Seconded by Mr. Raman Tampi.

Mr. Subba Aiyar.—

"If any mischief is caused, it is desirable that, in addition to the penalty that may be imposed by a Criminal Court, the right that the man was exercising, or the privilege that was conferred upon him, should be suspended for some period ".

President.—

"What the new para says is that, whenever fire is caused wilfully or by negligence in a Reserved Forest, the consequence will be that the exercise of all rights of pasturage in that forest or a particular portion of it will be suspended. When harm is done to a particular forest, that should be protected. That is all that is said there ".

The motion was put to the vote and lost.

Mr. Subba Aiyar moved that the word 'fresh' in sub-clause (*a*) of Section 21 of the Regulation be deleted, as it was consequential on the amendment to Section 7.

Seconded by Mr. Raman Menon.

Carried.

CLAUSE 11.

Mr. G. Parameswaran Pillai, in moving that the whole of sub-clause (1) be deleted spoke as follows :—

"This is another amendment which, if accepted, will result in further encroachment upon private rights and individual liberties. Let us consider what induced the learned Mover to introduce the amendment in the existing law. The only reason assigned by my friend for the introduction of the provision is that it follows Section 78 of the Indian Act as amended in 1918. It is noteworthy that the Madras Act upon which our Regulation has mainly been based does not contain any such provision. The learned Mover has not stated anything to justify our acceptance of this amendment on its own merits. On the other hand, there are very good reasons why it should be rejected.

The existing Section which was added only in 1085 makes ample provision for the speedy extinguishment and prevention of fire, etc., in Reserved Forests. As it is, every person owning a right in the Reserved Forest or holding a permit to do some particular act in such forest is bound to furnish whatever information he may possess as to the occurrence of fire or commission of any Forest offence and is also liable to render whatever aid is demanded of him by the authorities concerned. But the amendment seeks to impose an obligation upon such persons to forthwith take steps to extinguish the fire, etc., on pain of being convicted under this Regulation. This Section applies whether such person is, as a matter of fact, present in person near, or is far away from the forest premises or scene of occurrence. For instance, a person owning the right of pasturage in a Reserved Forest sends a boy in charge of his herd of cattle to the pasture land. There occurs a fire in some corner of the forest. The owner is nowhere near the scene of occurrence. He may be several miles away. But, according to the amendment, he is bound to fosthwith take steps to extinguish the fire on pain of being convicted. I have no doubt that this provision will work as an engine of oppression in the hands of Forest subordinates of whose acts we hear so much at successive sessions of the Sri Mulam Popular Assembly."

Mr. Kayalam Parameswaran Pillai.—

"I second the motion. If the Clause put in by the Mover of the Bill were passed, the village officers, such as the Anchal Masters, School Masters, etc., will come under its purview, and they will be at the mercy of the Forest subordinates. If a fire takes place in a forest and if these persons are to extinguish it, though they may be far away, and though not called upon by the Forest subordinates, that would be detrimental to their duties, and it will place them at the mercy of those subordinates."

Mr. Subba Aiyar.—

"Evidently there is a misapprehension. There are sufficient safe-guards in the Clause itself. If a man has got any information of the occurrence of fire, he should, as far as it lies in his power, try to extinguish the fire or do whatever lies in him to prevent the spread of the fire. If he were far away from the scene as suggested by my friend, he could not possibly do

LIBRARY ARCHIVES Kerala Legislative Assembly

anything, and the Clause may not affect him. He should extinguish any fire of which he has knowledge or information, or prevent by any lawful means in his power the spread of any fire in the vicinity of such forest, of which he has knowledge or information. The requisites are that he must have knowledge or information of the fire and that he must do whatever lies in his power to extinguish it. This is a thing which every man ought to do. Whenever we see a fire, we do not fold our hands until the Police officer comes. It may then be too late sometimes. In many instances a Forest officer or Police officer may not be present when the fire breaks out in the forest. The obligation is cast only upon certain classes of people. Ordinarily, there are many contractors in the forest employed for removing timber. The contractors and the large number of coolies working there, could very easily put out the fire, the moment it breaks out. They should not remain with folded hands until the Forest officer arrives. This is quite an innocuous provision. There is no fear that it will work any hardship against any man. Nobody will be foolish enough to prosecute a man who was far away from the scene and who had no knowledge or information of the fire. What is contemplated is that a large number of persons working in the forests or who are enjoying other privileges in the forest and certain classes of Government officers who could possibly prevent the spread of fire should try to extinguish it. As the law stands at present, there is only a moral obligation cast upon these people and there is no penalty attached to it. It is therefore not possible to make these persons do what is contemplated in the Section. Of late, there have been many instances of fire breaking out in the forests, and considerable mischief has been done in the forests. Several persons who are actually in the forests and who have certain privileges in the Reserved Forest are asked to do certain things when they see the fire breaking out. I do not see how this would cause hardship to any. When this amendment was moved in the Imperial Legislative Council, it was regarded as a non-controversial matter. None of the Members of the Imperial Council said anything against it. We know, as a matter of fact, that, whenever fire breaks out in any other place, the neighbours and the passers-by do their utmost to extinguish it. This is only human nature. To ask a man to do what possibly lies in his power to extinguish a fire is not, I think, going too far. Before concluding, I would read the speech of the Honourable Sir Claude Hill when he introduced the amendment. 'In putting this amendment before the Council, I do not think I need detain the Council at all. I explained in detail the measures which were embodied in the Bill when I introduced it on the 6th February last. * * * As no amendments or suggestions have been received since that date, I think I am entitled to assume that the Bill meets with the general approval of the Council.' For these reasons, I oppose the amendment moved by Mr. G. Parameswaran Pillai."

Mr. G. Parameswaran Pillai.—

"Although a person may have knowledge or information of a fire in the forests several miles away from where he is, if he is asked to extinguish it, it will be very hard upon him. The only explanation offered by my friend Mr. Subba Aiyar is that in such cases the Forest Department will not interfere with the man. I may say that the possible contingency of a person not being prosecuted is no explanation. It is also noteworthy that even supposing a particular individual is engaged in extinguishing and preventing the spread of fire, he may incur certain expenses on that account. There is no provision in this Section for reimbursement.

Mr. Kayalam Parameswaran Pillai.—

"As a Member who has also given notice of the same amendment, I desire to speak a word. I have no objection to the privilege-holder being saddled with a liability in extinguishing a fire. But why should village officers be responsible? They may be living far away at the time, although the forest is contiguous to the village they live in."

President.—

"Before I put the amendment to the vote, I may say that the obligation, referred to in the Clause, as Mr. Subba Aiyar pointed out, is only on persons who have knowledge or information of the occurrence of fire. Generally, such will be either employés in the Forest Department, or persons who are working in the forest as contractors and persons employed under them, or persons who enjoy some rights in the forest. The contractors will have naturally a large number of coolies working under them in felling trees. What the Section says is that, if the occurrence of fire comes to the knowledge of such persons, it is their duty to extinguish the fire. It is quite possible that no Forest subordinate may be there. He may probably be miles away. If the persons who are actually working in the forest at the time remain with folded hands without doing what lies in their power to extinguish the fire, the result will be that, by the time the information reaches the Forest officer, the whole forest will be burnt. There was an instance of a fire, rather an extensive one, last year, and the Department came to know of it long after the fire was over. Although there were many people in the forest at the time, none could be punished under the existing Regulation. If the people who had certain privileges in the particular forest had tried to do everything in their power, I think that the mischief could have been avoided. This provision is necessary in the interests of forest conservancy."

The amendment was put to the vote and lost.

Mr. Subrahmanya Pillai, in moving that the whole of the sub-clause (2) be deleted, spoke as follows.—

LIBRARY ARCHIVES Kerala Legislative Assembly

"I think this is an undesirable addition, which proposes to punish people who have nothing to do with forests. I have no objection to the obligations referred to in the sub-clause being imposed on those people who work in the forests. There is some meaning in that. But, if it is to be extended to other people, I think it will work hardship upon the general public. The provision will be a dangerous weapon in the hands of the Government subordinates and it will be a serious encroachment upon the liberty of the public. The forest subordinates are already armed with certain powers in the matter of forest fires. If the new powers now sought to be given to them under this provision are to be enforced, it would be something akin to slavery, as Mr. Krishna Aiyangar said at the time the Bill was introduced. The provision is sure to be misused by the Government subordinates in harassing the innocent public. Government will not in the least be justified in exacting labour from the public when even conscription of soldiers during the time of war is deemed undesirable. I therefore move that sub-clause (2), which proposes to penalise even persons who have no connection with the forest, should be deleted".

Mr. Raman Tampi in seconding the motion said :—

"I have also given notice of this amendment. It appears to me that, for the protection of the Reserved Forest, the infliction of a punishment by a Criminal Court is not necessary. The Section is sought to be applied only to people who go to the forest for some purpose approved by the Forest Department. In such cases, if these people do not do their duty in the matter of extinguishing the fire or taking any steps for the purpose, the privileges conferred upon them may be withdrawn. In the case of people who have rights of pasturage or in the case of contractors who go to forests for cutting and removing timber, they do these things under the express written permission of the Forest Department. In such cases, a condition may be inserted in the letter of permission granted to them, imposing upon them the obligations referred to in the Clause and stating that on their failure to observe the condition, the permission granted to them will be withdrawn. Again, it is too much to call upon these people to spend their time and money, when there is no provision for re-imbursing them. The dangerous portion of the Clause appears to be this, *viz.*, that 'any person who being bound so to do without lawful excuse (the burden of proving which shall lie upon such person)' shall be punished. Now, the man who goes to the forest in connection with his contract will have his own men. Most of them will be coolies. In respect of a fire which takes place in the interior of a forest, a man will be put upon his trial, and the ordinary rule of evidence, *viz.*, that prosecution has to make out a case against the accused and that, till then, his innocence should be presumed, is reversed, the man being compelled to prove that he acted properly. Naturally, the man could call his own people who were working under him to prove his case. As we all know, such evidence will be regarded in a Court of law as that of interested men and will not be entitled to any weight. It will be difficult for the accused to bring in respectable people to give evidence in respect of a thing which took place in the interior of a forest. I think that, in the actual working of this provision, much harm and unnecessary inconvenience will be caused at least to a section of the public. I would therefore submit that, in the interests of the people, the Clause should be deleted. If Government do not find their way to take away the whole Clause, at least the words 'burden of proving which shall lie upon such person' should be omitted."

President:—"There is another specific amendment to that effect."

Mr. Raman Tampi:—"Then I submit that the whole of sub-clause (2) should be deleted."

Mr. Subba Aiyar:—

"I oppose the amendment. What is provided by sub-clause (1) is not a mere pious wish but a legal duty cast upon the man to extinguish the fire and to do whatever lies in his power to prevent the spread of the fire. If it is not a mere pious wish but an obligation, there should always be a legal penalty or punishment for not discharging a duty cast upon the man. Mr. Raman Tampi said that there were other ways of punishing the man. I would ask whether any person for whom any friend pleads would prefer the suggested punishment. If a contractor is allowed to fell trees from a Government coupe for a whole year and if for the neglect of the contractor or any of his coolies the whole contract is taken away from him, will he prefer it? The punishment of a few rupees for not performing a duty is one thing; to take away the contract is another. The latter will mean necessarily a loss of thousands of rupees. The contractor will certainly prefer a fine of a few rupees to foregoing the contract. Let us pass on to the right of pasture referred to by Mr. Tampi. If a person takes cattle for grazing and if he remains quiet and does not put out the fire and if then we say that the man should be prevented from exercising the right of pasturage for years to come, will the man prefer it? The fine of a few rupees is more lenient than the alternative proposal. The breach of an obligation must necessarily involve a punishment. According to the Indian Act, the punishment is a fine of Rs. 200 or one month's imprisonment. Here the maximum punishment is only a fine of Rs. 200."

The amendment was, with permission, withdrawn.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. G. Parameswaran Pillai, in moving that the words 'burden of proving which shall lie upon such person' in sub-clause (2) be deleted, said :—

"I agree with Mr.Subba Aiyar in saying that, when an obligation is imposed, there ought to be a penal Clause. Why should negligence be presumed? There is no reason stated as to why the ordinary presumption of innocence should not be maintained even in the cases contemplated by this Clause. The extraordinary rule of evidence throwing the burden of proof on the accused to start with ought to be applied but sparingly. I am strongly of opinion that the ordinary rule of evidence in Criminal cases may be applied to the cases under this Clause also."

Seconded by Mr. Raman Tampi.

Mr. Subba Aiyar, in opposing the motion, said :—

"I do not think that it involves any infringement of the ordinary law. Suppose a man who was present on the spot did not do anything to extinguish the fire. If he wants to get out of the prosecution,he must prove that he was prevented for sufficient cause from extinguishing the fire. He may prove that he was not well or that he was prevented from other causes from extinguishing the fire. In other words, he must prove facts to justify his exemption from the operation of the law. It is not a case where the prosecution has to prove nothing. The prosecution has to prove that the accused was present at or near the place where the fire broke out or that he had knowledge or information about the fire. The accused has to prove circumstances under which he did not discharge the duty cast upon him by the law. These circumstances are entirely within his knowledge and it is for him to prove the same. To my mind this is the general principle of law with regard to burden of proof. That the man was helpless at the time or that he had some proper excuse which prevented him from doing his duty are things which the prosecution could not prove. The prosecution proves certain circumstances from which the Court will reasonably presume that the man might have extinguished the fire. It is for the accused to say. 'No doubt I was present, but circumstances prevented me from extinguishing the fire'".

Mr. G. Parameswaran Pillai :—

"The only observation that I have to make is that though my friend Mr. Subba Aiyar said that the prosecution was bound to prove that the person could have extinguished the fire, there is nothing in the Clause to suggest that the prosecution is bound to do it. In the absence of any such provision, the present provision will work hardship against the accused".

The amendment was put to the vote and lost.

Mr. Kayalam Parameswaran Pillai, in moving that the word "wilfully" be substituted for "without lawful excuse (the burden of proving which shall lie upon such person)" in lines 1 and 2 of sub-clause (2), said :—

"What is lawful excuse and what is not is not defined in the Regulation itself. A man may probably be ill or may have a more urgent work to attend to according to his own idea of things. Probably, the Court may decide that the excuse is or is not lawful. There is therefore an amount of uncertainty and vagueness about the term 'lawful'. Hence, it is better to put the word 'wilfully', so that if he wilfully neglects to do the acts required of him under the Clause he may be punished.

The motion fell through for want of seconding.

CLAUSE 15.

Mr. Kayalam Parameswaran Pillai, in moving that the Clause be deleted, said :—

"Under the rules passed under Section 33, already the liability is cast upon the holder of the pass to show it when demanded by the Forest Department. Thus, there is no necessity to include it in the Regulation itself. We are not amending the whole of the Regulation and we are not called upon to make an amendment unless there is a necessity. We have already provision made for this in the rules, and it is not shown why that is not sufficient. I may also say that the Regulation is silent as to what the penalty is. if the holder of the pass does not ment thereof could be punished. As it is, the proposed Section 33 A will be but a mere idle threat incapable of being enforced".

The motion fell through for want of seconding.

Mr. Kayalam Parameswaran Pillai in moving that the words "so long as he is in possession of materials covered by the pass" be inserted between 'shall' and 'be' in line 1, said :—

"When the materials have been disposed of, or when a man is no longer in possession of the materials, why should he preserve the pass" Hence the amendment".

Seconded by Mr. G. Parameswaran Pillai.

Mr. Subba Aiyer :—

"What my friend Mr. Parameswaran Pillai probably means is that the person should be asked to produce the pass while such timber or forest produce is in transit. There is no objection to the words "while such timber or forest produce is in transit" being inserted between 'shall' and 'be' in the Clause."

Mr. Kayalam Parameswaran Pillai agreed to the modification proposed by Mr. Subba Aiyar and it was accepted by the Council.

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CLAUSE 16.

Mr. Kayalam Parameswaran Pillai, in moving that the word "sunk" in line 1 of the new Section 33 B, be omitted, said:—

"Sometimes timber is deliberately sunk for seasoning, etc. If that also becomes drift timber, the Forest Department can take hold of it. Besides, I may say that the word 'sunk' is very wide, for instance, fisherman's catamaran which is sunk every day will also come under this provision. The moment it sinks, the Forest Department will take hold of it, and it will become theirs. It is not necessary to put the word 'sunk' in the Clause. If we put 'all timber found adrift,' as has been done now, it will be enough and it will cover what is intended by the word 'sunk'."

The motion fell through for want of seconding.

Mr. Kayalam Parameswaran Pillai moved that the following Proviso be inserted at the end of the second paragraph in the new Section 33 B, *viz.*

"Provided that this Section shall not apply to any timber found on private lands or in the possession of any person or persons," and said:—

"This is intended to safeguard a private right which every private individual has to protect. Hence, the amendment is necessary."

Seconded by Mr. Raman Tampi.

Mr. Subba Aiyar:—

"I oppose the amendment. There are four classes of timber referred to in the Section—timber found adrift, beached, stranded or sunk. In the case of a flood, timber is washed from Government forest or private holdings and deposited in somebody's compound adjoining a river. The mere fact that it lies there will not make it his own. The object of the Clause is to enable the Government to take possession of such timber, to make the necessary enquiry, and to find out the real claimant and dispose of it. The Forest Department will dispose of the claim, and if the party is not satisfied with the decision, he may resort to a Civil Court for adjudication upon it. I do not think that there can be any real grievance to any one in this. The fact that the timber lies in a particular garden is practically immaterial. All that is contemplated is that an enquiry should be made. It is not intended that the Government should in the first instance appropriate the timber. We know in ordinary practice that timber is washed away in heavy flood, and that, when the flood subsides, the timber is left in the adjoining compound. In Travancore registered holdings and forest areas are so close to one another that timber from Government forest being found deposited in a private compound, is not an uncommon phenomenon.

Mr. Kayalam Parameswaran Pillai:—

"The Section as it stands applies not only to Government timber but even to private timber. The question is whether it is necessary to give power to enter upon private lands and take hold of the timber. The general law applicable to lost property can be made applicable to such timber also. There is no necessity to make an express provision here."

The amendment was put to the vote and lost.

Mr. Kayalam Parameswaran Pillai moved that the following be added at the end of the new Section 33 B:—

"Explanation:— Timber in this Chapter does not include any wood that has been wrought or fashioned, such as rafters, beams, reepers, doors, windows, articles of furniture, boxes, bales or boats."

In moving the amendment he said:—

"In the case of a flood, many things will be washed away. Not only trees but even houses may be washed away and along with them the furniture also may be washed away. As the Section stands, the Forest Department can get hold of all these things. The expression 'timber' in this Section has therefore to be explained so as not to include furniture, etc. Hence the amendment."

Mr. G. Parameswaran Pillai, in seconding the motion, said:—

"For the purpose of this Section, timber has been divided into three classes. All unmarked timber is one of them. The definition of the term 'timber' has already been modified with reference to Section 2 (c). The modification that has been adopted there may also be adopted here. That may not prejudicially affect the interests of the forest administration. We have modified the definition in one portion of the Bill, where probably it was immaterial. But in this particular instance, the term contemplates not only drift timber but also all unmarked timber. Hence, the amendment is necessary."

Mr. Subba Aiyar:—

"The difference between the amendments to Section 2 (c) and to this Section is this. The one makes it an offence whereas the other does not. Secondly, the object of this Section is to find out the real owner of the timber. The object of the other is to preserve Government property. This Section deals with the procedure to be followed in finding out the real owner of the timber mentioned therein. Suppose timber belonging to Government or to A is found in B's property. The Forest Department takes possession of it and calls for evidence and disposes of it. I do not know whether any restriction is necessary in such cases. On principle, no difference should be made between unwrought timber and timber that has been converted into

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rafters, doors or windows. Supposing a ring is found on the road, the Police Department takes possession of it and refers it to a Magistrate who takes evidence and disposes of it, and then if the claimant is not satisfied with the decision, he appeals against the decision to higher authorities. It is a similar investigation that is contemplated here. What does it matter whether it is windows, chairs or tables? We are only concerned with the ownership of the lost article".

Mr. Kayalam Parameswaran Pillai:—

"As the Section stands, it is not only the drift timber that is made subject to this provision, but also timber which has been wrought up. If I have got a chair with my initials cut on it, that will be timber bearing unregistered property mark; and the chair may be taken possession of by the Forest Department. Until it is proved otherwise, it will be deemed to be the property of Government." Again the Section says that, in such areas as may be notified, all unmarked timber shall be deemed to be the property of Government. I think that 'timber' as given in this Section, is very wide, as it would include even articles of furniture. It is not usual to give registered marks to such articles. The result would be that they would be seized by the Forest Department as the property of Government."

The amendment was put to the vote and lost.

Mr. G. Parameswaran Pillai, in moving that the words "in such areas as Our Government direct all unmarked timber," in line 1 of paragraph 2 of Section 33 B, be deleted said:—

"This is a sweeping provision and it would prejudicially affect the vast majority of the subject population".

Seconded by Mr. Kayalam Parameswaran Pillai.

Mr. Subba Aiyar:—

"I have to explain why the expression is put in here. My friend is under the impression that the articles of furniture in anybody's bungalow will be regarded as unmarked timber. The Section says that unmarked timber in any area that may be declared by Government will be taken possession of by the Forest Department. Till such Notification is made, the Section will not apply to unmarked timber. The Section is an improvement upon the existing rules. I think that the fears entertained by my friends are groundless".

President.—"Unless the Government direct, as stated in the Section, it will have no operation. The Government will have to declare the area by means of a Notification, and even in issuing a Notification, Government will not say that all unmarked furniture that is found, for instance, within the Municipal limits of towns like Trivandrum, Alleppey, etc., should be regarded as Government property. Naturally, the Government will consider very well before issuing a Notification of the kind as to the place it should apply to. I think this is the only way the Section can be worded".

Mr. G. Parameswaran Pillai:—

"If that is the intention of the Section, it may be made clear."

The amendment was put to the vote and lost.

Mr. Kayalam Parameswaran Pillai, in moving that the expression "no notice of suit as provided by Section 409 of the Civil Procedure Code shall be necessary for the institution of a suit under this section" be inserted at the end of the fourth paragraph in Section 33 D, said :—

"The Section, as it stands, provides but three months' time for bringing in a suit against the Government. Under the Civil Procedure Code, the party has to give three months' notice. But if he waits for three months, the suit will be barred. Hence, the amendment".

President.—"Probably, the period of three months will have to be extended. That may be settled, when your other amendment, *viz*., substitute 'six' for 'three' in the Section comes up. Do you press your present amendment?"

Mr. Kayalam Parameswaran Pillai:—"I do not press this amendment."

Mr. G. Parameswaran Pillai then moved that the word "six" be substituted for 'three in line 1 of paragraph 3 of Section 33 D. He said:—

"Under Section 409 of the Civil Procedure Code, it is imperative to give three months' notice to Government before any Civil suit is filed against them. It is therefore necessary that at least six months' time ought to be allowed from the date of the claim order to file a suit against such order. If it is provided that no notice under Section 409 need be given to Government in such cases, the period may be fixed at three months. The learned Mover seems to have followed the Indian Forest Act in this respect as well. That Act provides only three months. But under Section 8 of the British Indian Civil Procedure Code, only two months' notice need be given to the Secretary of State."

Seconded by Mr. Raman Tampi.

Mr. Subba Aiyar:—

"With reference to all suits against Government the policy of the Legislature is to make as short as possible the period of time within which such suits should be brought. Personally, I think that a period of four months may be provided. I, however, leave it to the Council."

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. G. Parameswaran Pillai :—

"Then a period of five months may be provided for."

Mr. Mackie:—"The timber may deteriorate within five months."

The Council accepted Mr. Subba Aiyar's proposal to fix a period of four months.

Mr. G. Parameswaran Pillai, in moving that the Clause "but no person shall recover any compensation or cost against Our Government or, against any Forest officer, on account of such rejection or the detention or removal of any timber or the delivery thereof to any other person under this Section" in paragraph 3 of Section 33 D, be deleted spoke, as follows :—

"Chapter V A has been newly introduced here following the Indian Act. But should it be adopted wholesale? Let us at least omit portions of the same which prejudicially affect the ordinary and fundamental rights of citizens. The amendment before the Council takes away the jurisdiction of the Court of law in the matter of awarding costs or compensation to parties who may be justly entitled thereto. It is a primary right of individuals that is sought to be taken away. On principle, the discretion of the Courts of Justice to award costs or compensation to aggrieved parties who seek redress before them should not be so arbitrarily fettered. The fact that either Government or an officer of Government is the defendant should make no difference in this matter. They ought not to receive any exceptional treatment in the administration of this salutary rule of justice. The learned Mover has not placed before the Council any practical difficulties experienced by Government in the absence of such a provision. Drift timber is even now collected and satisfactorily disposed of under rules framed by Government. But when statutory provision is made in this respect, let there not be imposed unnecessary restrictions on private rights. We shall have presently to deal with an amendment whereby no Civil suit or any proceeding can be instituted against Government or any public servant for any act done in good faith. Why hesitate to trust their own judicial officers in the matter of awarding costs or compensation to parties justly aggrieved? Ordinarily the Courts of law are quite unwilling to award cost to any party whose conduct is found to be blameworthy. It is only when the Courts are convinced of the justice of the plaintiff's cause that they award costs to him.

As was already referred to, the Indian Act contains this provision although the Madras Act is silent on this point. The Madras Act was passed in 1882 and amended subsequently. No necessity has yet arisen for adopting such a provision. No ground has been shown for our accepting this provision. I therefore beg to move that the same be deleted."

Seconded by Mr. Subrahmanya Pillai.

Mr. Subba Aiyar:—

"The Forest officer here acts somewhat as a judicial officer. He finds the timber, publishes notice calling upon persons claiming it to prefer their claims before him, and if the officer, after taking evidence, decides in favour of a particular person, the latter may take the timber. There is no claim made on behalf of Government upon the timber. I should think that it is very unreasonable to ask Government to pay costs or compensation in case a person not satisfied with the decision of the Forest officer succeeds in establishing his claim through a Civil Court. That would be something like asking the Munsiff whose decision is reversed in appeal to pay the costs of the party. Here it is the unclaimed property that the Forest Department takes possession of : and why should Government pay the costs or compensation ? I therefore oppose the amendment."

Mr. Raman Tampi : –

"The observations of my friend, Mr. Subba Aiyar, may be correct when *bona fide* proceedings are taken to ascertain as to who is the real owner of the timber. Supposing it is established in a suit, that the action of a Forest officer was not supported by *bona fides*, and that his action was wilful, with a view to injure the party. Then, what is the remedy of the party ? As a matter of fact, cases are not rare, where subordinates of the Forest Department interfere with the people in such matters solely to wreak vengeance and put them to trouble. Several cases of this kind have been brought to the notice of the public. If this provision of law is maintained, then, the aggrieved party will go without any remedy. I therefore think that some safeguards should be provided to meet these cases. Under ordinary conditions, we may accept Mr. Subba Aiyar's assurance. But the law must provide remedy in other cases. I therefore submit that the amendment is necessary."

Mr. Kayalam Parameswaran Pillai :—

"The analogy put forth by my friend Mr. Subba Aiyar does not apply here. The Munsiff is an impartial judicial officer. He has no concern with the matter in dispute before him. It is between party and party. In the case of the Forest officer, he sits not as an arbitrator. He claims the timber as belonging to Government. Further, when the party succeeds in a Court, he gets the costs from the opposite side. I support the amendment."

Mr. Nidiry :—

"The analogy of a Munsiff to the Forest officer does not hold good. If it is found by the Court that the Forest officer was acting *bona fide*, no compensation will be allowed. In that respect, the Forest officer is fully protected. Now, even if the officer does not act *bona fide*, no costs will be allowed to the party, and the aggrieved party goes without remedy."

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. G. Parameswaran Pillai:—

"My friend Mr. Subba Aiyar's observations are confined to the disposal of lost property before a Court of law. I submit that it is not all that is covered by Section 33 B. Whenever it has been found by a Court of law on evidence that, as a matter of fact, the Forest officer did wrong in actually seizing and detaining such timber and if it is found that the officer was himself answerable, it is hard to deny the party his costs. The Government may well trust the Judicial officers to exercise their discretion in the matter of awarding costs. The Judicial officers are not expected to award costs against the Government, without as a matter of fact ascertaining the merits of the case, merely because a suit has been filed for some act of the Forest officer. I submit therefore that the Courts of law may be presumed to exercise their discretion in a proper manner and that there can be no difficulty in the matter. The provision is therefore unnecessary and must be deleted."

The amendment was put to the vote and lost.

Mr. G. Parameswaran Pillai, in moving that the new Section 33 F, introduced in the Clause be deleted, spoke as follows :—

Sections 33 C and 33 D deal with claim petitions preferred in respect of timber collected by the Forest authorities under Section 33 B. On rejection of such claim the party aggrieved is entitled to institute a suit in a Civil Court to set aside the claim order and seek recovery of the timber. The Court may also decide that the claim was improperly disallowed and that the seizure and detention of the timber was illegal or wrongful. In the first place the preceding Section divests the Court of its discretion to award costs. Added to that, when the party attempts to take possession of the property after establishing his ownership thereto through a Civil Court, he is told that before he is entitled to recover possession he ought to pay Government such sum as may be determined by rules framed by Government in this behalf. In effect therefore when a Forest officer commits a wrongful act, in the first place, you must take the decision of the Forest authorities. If you are not satisfied, you may seek and obtain redress in the Civil Court. But you are denied your costs there, nor are you entitled to be compensated for any wrongful loss you may have sustained. On the strength of the Civil Court decision, if you proceed to take back your property, you must pay Government something they might fix and all this because you happen to be in the right and Government in the wrong. In other words, you must indemnify the wrong doer in accordance with his requisition. I beg to submit that this is most unfair. It was to provisions of such nature that Mr. T. Raja Ram Row referred. Those memorable words, uttered by one of the ablest and most experienced officers of the State, who as we all know was for some time President of this Council, bear ample testimony to the broad spirit and wide outlook of the Legislature when they deliberately refused to import into this State the rigour of British Indian laws which pressed hard upon contented and peaceful citizens."

Seconded by Mr. Raman Tampi.

Mr. Subba Aiyar:—

"When timber found stranded, adrift or sunk in a river or a lake, has been found out by the Forest Department, they take possession of it and remove it to a particular place where claims in respect of that timber are adjudicated upon and, finally, if it is found that it belongs to a particular individual, he is asked to pay a certain amount before he takes delivery of the timber. It may be that the timber might have been found sunk in the middle of a lake, miles away from the compound and that the Forest Department after spending some labour and expense recover it. To say that the man should get such timber without paying such expenses is not quite fair. It is a fundamental principle in cases of this kind to recover the cost incurred, for example, in the case of a steamer, salvage is claimed. I cannot see how it is unfair to ask the man to pay the expense of removal of timber from distant places to a depot. No body would have claimed the timber so long as it was under water. I therefore oppose the amendment."

Mr. G. Parameswaran Pillai:—

"My friend, Mr. Subba Aiyar, has not taken the correct sense of Section 33 B. He seems to be under the impression that timber about which the aggrieved party goes to a Court of law and gets a decision in his favour will be such as is stranded, or sunk in a lake or river. But it is very clear from the Section that it includes all unmarked timber and other timber referred to in paragraphs 2 and 3 thereof. Supposing that it affects only drift timber, even then, my point is not answered by the learned Mover. My point is this; suppose a Forest officer takes hold of a timber and detains it in the allegation that it is a stranded or drift timber, merely for the sake of frivolous vexation, when as a matter of fact it is not a stranded timber, and then the claim put forward by a person is also dismissed; suppose also the man goes to Court and succeeds in establishing his claim; what the Section says is that the man must pay a certain amount. In such cases, to ask the man to pay for getting back his timber will be very hard. My friend has confined his attention only to one particular groove. We have to take a comprehensive view of the whole case. We have to view things not in such particular grooves as would not cause hardship. Again we have no knowledge as to what sort of rules the Government are going to make. I therefore submit that Section 33 F should be deleted".

LIBRARY ARCHIVES Kerala Legislative Assembly

The amendment was put to the vote and lost.

CLAUSE 18.

Mr. Raman Tampi, in moving that the word "shall" be substituted for "may" in line 3 of Section 36 A, said.

"The Section as it stands says that the officer who makes the seizure of things mentioned therein *may* release them on the execution of a bond by the owner for their production before a Magistrate, *i. e.*, a discretion is vested in the officer to release or not to release the things. I think that, considering the class of officers to whom this work is entrusted, it is not at all improbable to expect that the discretion will be improperly exercised".

President :—"The lowest officer that has got to do this is the Forest Ranger."

Mr. Raman Thampi :—

"I am fully aware of it and I submit that in order to make it compulsory on the part of such officers the word 'shall' should be put in."

Seconded by Mr. G. Parameswaran Pillai.

Mr. Subba Aiyar :—

"I think that the Section is intended to afford relief to persons whose goods are seized. The officer seizing the goods must have a discretion. The Section says that the articles may be released on the execution, by the owner, of a bond. The officer has to be satisfied that the person executing the bond is one who will carry out the provisions of the bond."

Mr. Raman Tampi :—

"If this argument is to be accepted, then similar amendments will have to be made in various other enactments. In the Criminal Procedure Code, there are Sections which say that when a man is arrested in respect of a bailable offence, it is obligatory on the Magistrate to release the man on bail. But still the Magistrate is invested with power to see whether the security offered is proper or not. Looking at the Criminal Procedure Code as a whole, the wording therein is to the effect that it is obligatory on the officer of Court to give bail. Similarly, here also, if it is made obligatory on the Ranger or other officer to release the things on the owner undertaking to give security, then the power to scrutinise the validity or otherwise, or the sufficiency of the security will not stand in the way. As a matter of fact, the provision as it stands will cause real hardship to the people. We have Rangers who have good qualifications and who are entitled to higher appointments. At the same time, we have to take into account the fact that there are Rangers also who have come up from the lowest rung, and if we invest these people with the discretion sought to be given by the present provision, the discretion is liable to be abused by them, and serious mischief will be caused in many cases."

The amendment was put to the vote and lost.

Mr. Raman Tampi moved that the following Proviso be added at the end of the Clause :—

"Provided that when such seizure is made by any officer inferior in rank to that of a Ranger, such officer shall produce the articles or cattle seized before a Ranger or other superior officer within 48 hours after effecting the seizure."

He said:—

"According to the Section, the Ranger may release the articles and the cattle seized, on the execution of a security bond by the owner. But, if the seizure is effected by a subordinate, inferior in rank to the Ranger and if the Ranger is not close at hand, the subordinate has not got the power to take the bond. There must therefore be some provision compelling the subordinate to take the articles and the cattle before the superior officer as early as possible. Hence the amendment."

Seconded by Mr. G. Parameswaran Pillai.

Mr. Subba Aiyar:—

"What my friend wants is that the articles seized by the inferior officers under Section 36 should be produced by them before the Ranger or other superior officer even though the latter may live far away from the locality where the articles were seized. The easier thing would be for the party to run up to the Ranger and after executing the necessary bond to take back the articles from the place where they were seized or apply to a Magistrate. Instead of this, my friend wants to throw the obligation upon the Forest subordinate to produce the articles at any cost before the officer where he lives. If this is done, who is to pay the cost? And is it feasible?

President—"Suppose it happens that the articles seized consist of several logs of wood and the officer before whom they are to be produced lives away from the place where the seizure was made. It may sometimes be physically impossible to carry the articles within 48 hours before the officer."

Mr. Raman Tampi:—

"There may be difficulties in particular instances. But all the same, the difficulties of the party will be considerable."

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Subba Aiyar:—

"In cases where the thondy articles are seized by the superior officer, the party may move that officer, who may then release the articles. In other cases also, the party may move, as I said, the officer, and then, after obtaining his orders, have the articles released. We know that, in many cases, the Courts order the release of articles seized without their being produced before them. That will be quite enough in the case of these articles also. Besides, unnecessary delay and expense in carrying the articles may be avoided. The object in view can be well served by the officer being invested with the power of releasing the articles."

Mr. Raman Tampi:—

"In the light of my friend Mr. Subba Aiyar's observations, I do not press the amendment."

The amendment was by permission withdrawn.

The Council adjourned at 5 P. M. and met again the next day at 12 noon. All the Members that attended the previous day were present. The consideration of the remaining Clauses of the Forest Regulation Amendment Bill was resumed.

Mr. Subba Aiyar:—

"Mr. Kayalam Parameswaran Pillai pointed out yesterday that no penalty was provided for breach of the provisions in Section 33 A. I agree with him and think it necessary to provide for it in Section 35. I therefore move that the words "provisions of Section 33 A or the" be inserted between 'of the' after 'infringment of the' and 'Rules' in line 1 of Section 35 of the Regulation".

Seconded by Mr. Raman Menon.

Carried.

CLAUSE 20.

Mr. Kayalam Parameswaran Pillai, in moving that the words "subject to the provisions of this Regulation" be inserted, before the word 'Our' in line 1 of Section 46 C, said:—

"This Section says that the Government may frame rules regulating the killing or wounding of any wild elephant in defence of person and property. The provision, as it is, is very wide and rules may be framed in such a way as to minimise the little protection that is given by the Regulation".

President.—"Even otherwise, if Government frame rules which are against the provisions of the Regulation, the rules cannot be enforced."

Seconded by Mr. Nidiry.

Mr. Subba Aiyar:—

"I do not think it necessary to insert the words "subject to the provisions of this Regulation" in this Section. The only Section with reference to the killing or wounding of wild elephants is Section 46, which says that wild elephants may be killed or wounded in defence of person or property, and these words are introduced in Section 46 C. I do not see what useful purpose will be served by the insertion of the above words. I therefore oppose the amendment."

The amendment was not pressed.

CLAUSE 21.

Mr. Raman Tampi, in moving that the word 'shall' be substituted for 'may' in line 3 of Section 47 A, said:—

"The new Section, 47 A, introduced by the Clause says that the Ranger or other superior Forest officer may release a person arrested under the provisions of Section 47, on such person executing a bond for his appearance before a Magistrate or a Police officer. In connection with my amendment to Section 36 A on a similar point, Mr. Subba Aiyar said that the officer would have to consider the sufficiency or otherwise of the security that would be offered. There might be some justification for it in regard to that Section, because, under it, the goods seized have to be delivered to the party by the officer. But it is only the personal appearance that has to be guaranteed here. So, in order that persons who go to forests for various purposes may not be harassed by the Forest subordinates, I think it must be made obligatory upon the officer to release the man arrested on the execution of a bond for his appearance. Hence the amendment."

Seconded by Mr. G. Parameswaran Pillai.

Mr. Subba Aiyar:—

"The officer before whom the bond is executed should be satisfied that the person arrested will observe the conditions in the bond, *i e*, that he will be in a position to produce the articles seized in the case of Section 36 A, or appear himself in the present instance. If we put the word 'shall', the moment that a man is arrested, he may say that he will present himself on such and such a day before a Magistrate and the officer has no alternative but to release him. If he absconds, or if he is a foreigner, for instance a Cochinite, how to get at him? The officer has therefore to be satisfied whether the person will appear before the Magistrate in pursuance of the bond. If he is not satisfied, he is not compelled to release the man. Hence in order to give a discretionary power to the officer, the word 'may' is put in. Under the present law, the application for release is to be made to a Magistrate. I therefore oppose the amendment."

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—"This is only a question of the sufficiency or otherwise of the bond. It is left entirely to the discretion of the officer, to accept or reject it. If he thinks that the man will execute the provisions of the bond, by all means he will release the man."

Mr. Raman Tampi:—"If he thinks that he will execute the provisions of the bond, it is all right. But, I think that, in the actual working of the provision, there is the chance of great harm being done to the people. If the officer is to be given this discretionary power, I may say that, as a matter of fact, the provision will be availed of by officers of an undesirable kind to harass the people and to put them to all kinds of difficulties. If the officer is not satisfied that the man will carry out the provisions of the bond, the man may be called upon to furnish surety or security. There is no provision for that purpose. If a man is prepared to execute the bond, still the officer may say that he is not satisfied that the man would appear and that he might go to the Divisional Forest Officer at Shencottah or other distant place, with the result that the man arrested will have to be taken to that place. I certainly think that much harm and trouble may be caused to innocent people and that therefore the amendment ought to be allowed."

President.—"Before putting the amendment to the vote, I shall just mention another point that strikes me. This new Section (Section 47 A) is put in as an addition to Section 47. Under Section 47, the Forest officers, under certain circumstances, have the right to arrest certain persons even without warrant, and if they arrest a man, they have not been given power to release him, but they are bound to take him to the nearest Police Station. Under the new provision, an additional liberty is given to the subject by granting a discretion to the arresting officer or his superior if the arresting officer is below the rank of a Ranger, to release the man on his own bond, instead of being compelled to send the man to the Police Station so that we find that a new liberty is given to the arrested person and not a new restriction. As a matter of fact, the existing provision does not give any discretion to the arresting officer or his superior. There is really no hardship created by the new provision. The evils you contemplate are already there. The object of the present provision is to minimise them."

Mr. Raman Tampi:—

"Under the existing law, the Forest officer is bound to take the arrested man before a Magistrate. Now, he is not bound to do it."

President.—"Under the present provision, he may himself release the man."

Mr. Raman Tampi:—

"The condition of the arrested man under the present provision may be worse than that under the old law. Because, under the old law, the man is taken before a responsible officer like the Magistrate, and the man gets advice and he is likely to be let out on bail. Here, he is left to the discretion of an officer like the Ranger."

President:—

"He has no other discretion. If he exercises his discretion, it will be in favour of the accused, *i. e.*, to release him. He has no option. If he does not release the man, he is bound to take him before a Magistrate.

Mr. Raman Tampi:—

"At any rate the discretion of the Magistrate can be trusted better than the discretion of a Ranger."

The amendment was put to the vote and lost.

CLAUSE 22.

Mr. G. Parameswaran Pillai, in moving that the Clause be deleted, spoke as follows:—

"I propose that the existing Section may be retained. This Section is sought to be amended so as to prevent any person from instituting a suit or other proceeding against Government or any public servant for any act done or ordered to be done under the Regulation in good faith.

Yesterday, several provisions were passed by this Council, whereby the Forest authorities were invested with considerably larger powers and one of the main grounds on which we on this side of the hall protested against the acceptance of those provisions was that they are liable to be abused by the authorities concerned. A pious hope expressed by the learned Law Member that the Forest subordinates may be expected to exercise those powers reasonably and with due discretion, although it may satisfy Government, will not certainly be sufficient to console the people whose rights have been encroached upon. It is more reasonable to suppose that the people may not without sufficient cause institute vexatious suits against public servants, especially in Civil Courts. It is certainly a wholesome principle to protect public servants from vexatious criminal prosecution for *bona fide* acts performed in the *bona fide* exercise of their official duties. But to deprive the ordinary citizen of his civil rights to obtain remedy for wrongs done to him by even a public servant is highly illegal and unjust. I believe we are within our rights to call upon my learned friend the Member in charge of Legislation to furnish us with statistics to show that the public have during the currency of the existing Regulation for over a quarter of a century abused the right saved under the existing Section and put Government or public officers to worry and expenses by instituting and conducting vexatious suits. It would not be difficult for my learned friend to satisfy our demand in this

LIBRARY ARCHIVES Kerala Legislative Assembly

respect; for, statistics on this point must be within his easy reach. Such a statement is not forthcoming. On the other hand, the learned Mover himself has quoted the speech of that eminent Councillor, the late Mr. Rama Aiyar. He said "in my view this amendment relates to an important matter. I do not understand why a public servant acting under this Regulation should be saved from civil liability. It is all right to protect the public servant from criminal prosecution for any *bona fide* act of his. But why should a private individual suffer loss caused by a public servant and not be able to recover it from him if such loss is due to him otherwise.' The Council then accepted the contention of Mr. Rama Aiyar, and what was then uttered by him remains true to this day. The only answer given by my learned friend to the above plea is 'I do not *think* the argument is sound.' I believe this Council will agree with me in thinking that something more than a mere *ipsi dixit* as the above, even though it comes from the learned Law Member of this Council, is necessary. Something more is necessary to induce us to brush aside the deliberate opinion of this Council and to adopt a provision which interferes with the civil rights and liberties of the people.

As regards the liability of Government being sued, my friend himself has, in introducing this Bill, stated 'if a public servant acts *bona fide* under the Regulation, why should he be liable in damages? If the Government are liable, let the Government be sued. Why should the public servant suffer?' Although therefore the learned Mover concedes that Government may be sued, the amendment before the Council seeks to render Government also immune from any proceeding.

The civil liability of public servants for wrongs committed by them even as public servants has been recognised both by our High Court and the Privy Council. Their Lordships of the Privy Council stated as follows:—'If the act is in itself wrongful, the officer in doing it will in any event be liable. Neither does it seem to them to include the question in the action that the act complained of is to be considered as the act of the Government and that, in the part which the defendant took in it, he acted only as the officer of Government intending to discharge his duty as a public servant with perfect good faith and with an entire absence of malice, particular or general, against the plaintiffs. For, if the act which he did was wrongful, as against the plaintiffs and produced damage to them, they must have the same remedy by action against the doer, whether the act was his own, spontaneous and unauthorised, or whether it was done by order of a superior power. The civil irresponsibili y of the Supreme power for tortuous acts could not be theoretically maintained with any show of justice if its agents were not personally responsible for them; in such cases the Government is morally bound to indemnify its agent and it is hard on such agent when this obligation is not satisfied; *but the right to compensation on the party injured* is paramount to this consideration.' *In Cobbet versus Sir George Grey*, their lordships laid down that an act legally wrongful in itself renders even a public servant personally responsible though the act was *bona fide* done by him on behalf of the public. Cockburn C. J. in *Feather V, Queen* says 'As the Sovereign cannot, authorise wrongs to be done, the authority of the Crown would afford no defence to an action brought for an illegal act committed by an officer of the Crown.'

Coming nearer home the late Chief Justice of our High Court, Mr. Sadasiva Aiyar and Mr. Justice Hunt laid down in 25 T. L. R. p. 45, as follows:—

'Although Heads of Departments appear to be immune from misfeasances or non-feasances, or negligence, or omissions of duty, occasioned by subordinates properly employed in the discharge of their official duties, it by no means follows that such subordinates are themselves exempted from all personal responsibility therefor to third persons.'

From these it is evident that the amendment proposed by my learned friend is neither based on any wholesome principle of law nor called for by any public exigencies.

I may be permitted in this connection to state that, by depriving law-abiding citizens of their undoubted rights to invoke the aid of tribunals, we run the possible risk of exposing Forest officers to resistance by such citizens who honestly think their security of property is likely to be imperilled by the enforcement of certain rigorous provisions of this Regulation.

Another reason given by the learned Mover for introducing this amendment is that similar provisions are to be found in the Abkari, Salt, Sea and Land Customs and Survey and Boundary Regulations. This is no argument. Further, if in any Special Law, provisions protecting Government and public officers against suits are introduced, all can easily realise the utter futility of the well known maxim that there is no wrong without a remedy. If, as contended by my friend, other Regulations contain similar provisions, it is high time for us to cry halt and even glance back and avail ourselves of the earliest opportunity to have the provisions repealed whenever suitable occasions arise.

I may also point out that wrongs committed under colour of the Forest Regulation by the officers concerned are as a matter of fact likely to be of more mischievous and far-reaching character and to affect a much larger portion of the public than is the case under the Regulations above referred to by the learned Mover.

For the above reasons, I beg to move that the Clause be deleted".

Mr. M. Subrahmanya Pillai, in seconding the motion, said :—

"Section 56 of the existing Regulation already protects Government officers from criminal prosecutions for any thing done in good faith. The learned Mover now proposes to

LIBRARY ARCHIVES Kerala Legislative Assembly

save the Government and their officers from civil liabilities as well, so as to remove what he calls the 'Damocles' sword' hanging over their heads. This form of impunity, he thinks, is necessary for the Government officers in order to enable them to discharge their duties properly. But, at the same time, he has perhaps forgotten the fact that the Government have a greater responsibility for protecting the subject from unnecessary loss or damage. Why a man should suffer loss or damage through the action of an officer of Government, whether *bona fide* or not, is beyond our comprehension. If the Government are anxious to protect their officers for the sake of efficiency, let them step in and shoulder the responsibility, rather than shirk it. Mr. Subba Aiyar has disposed of the late Mr. Rama Aiyar's arguments as unsound. We are not inclined to take them in that light. We are indebted to the learned Mover for the revelation that the policy of the Legislature has lately been to exempt Government servants from civil liabilities. The policy mentioned deserves to be overhauled. The Government, in dealing with private rights and privileges of the subject, should not take undue advantage of the fact that the present Legislature is under their control. Popular control over the administration is increasing, and, along with it, a change in the policy is inevitable. If the policy of the Legislature now is to save the Government and their servants from civil liabilities, I would suggest that it is time to reconsider the propriety of adopting such a policy. If a man is entitled to damages from another, even if the liability has arisen from the *bona fide* action of the latter, I do not see any reason why the Government alone should seek protection from the Legislature. In my opinion, either the Government or the officers should be liable to pay damages, however caused, and this so called Damocles' sword is always necessary to constantly remind the officers that they are the servants of the public and not their masters. For these reasons, I beg to second the amendment proposed by Mr. G. Parameswaran Pillai."

Mr. Subba Aiyar :—

"I oppose the amendment. I regret that my friends on the other side have entirely misunderstood the scope of the Section. What the Section says is that, if any person does any act in good faith in pursuance of the Regulation, he shall not be liable for the same in a suit or other proceeding. My friends say that this is against the interest of the subject and should be reconsidered. With all deference to them, I do still maintain that the provision is absolutely necessary. Mr. G. Parameswaran Pillai has quoted authorities to show that public servants should be made liable and that they cannot escape liability for any acts done by them. The rulings quoted show that if anything wrongful in itself has been done by a public servant or if any public servant has been negligent in discharging his duty, he will be liable in a civil action. The rulings do not apply at all to the present cases. What the proposed Section says is that if anything has been done by any public servant in pursuance of the Regulation and if it is done *bona fide*, which, in ordinary language means, with due care and attention, he is immune from liability. If such protection is not given, no public servant will willingly discharge a statutory duty that is imposed upon him. If, in the discharge of a legal duty or in the exercise of a discretion vested in the public servant by the Regulation, a private individual has suffered an injury, how could the public servant be made liable for it? When introducing this Bill, I even said that, if the Government would be liable, let them be sued but not the public servant. The Section, as it stands now, is intended to protect the Government for any act done by them *bona fide* and the public servant for any act done by him *bona fide* in pursuance of the Regulation and not to protect Government from any act done by a public servant. I have no objection to delete the word 'Government' from the Section. If, on the other hand, the public servant has acted *bona fide* and if Government could be made liable for the same, by all means, have it. The real point is that a public servant ought to be protected, if he does anything in discharge of his duty *bona fide* and in pursuance of the Regulation. There are sufficient safeguards in the Section. His act must be in pursuance of the Regulation. It must be *bona fide*. Only then, he will be protected. A public servant is not absolved from liability for all acts of his. For an act negligently done or for an illegal act, a public servant is not protected by the Section. If precedents were required, I referred to the other Regulations in Travancore. I referred to the British Indian Act, and the Madras Act and the Mysore Regulation, where similar immunities are given to public servants. I think I have sufficiently explained my position, and it is unobjectionable. For these reasons, I oppose the motion."

President.—"I suppose you have no objection to delete the words 'against-Our Government, or' in the Section. We shall remove the misapprehension by deleting them, when we come to Mr. Kayalam Parameswaran Pillai's amendment regarding them. The present amendment may stand on its own merits."

Mr. Kayalam Parameswaran Pillai:—

"My friend Mr. Subba Aiyar says that, if a public servant does a thing under the Regulation he should be protected. With regard to that, I may say that if he does a thing under the Regulation, that will not be illegal, i. e., that will be legal, and he will not be liable. If the act is against the Regulation, i. e., something not justifiable by the Regulation, there is no reason in saying that he should not be made liable in damages, simply because he acts for Government, when the duties cast upon him have no direct relation to the public themselves."

President.—"The act must be 'in good faith and in pursuance of the Regulation.' Both these conditions will have to be satisfied. These two expressions appear together in the Section."

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Kayalam Parameswaran Pillai:—

"The act must be something done in good faith and justifiable by the Forest Regulation. My friend goes beyond that. The act may or may not be justifiable under the Regulation and yet it may be done in good faith. What I want to suggest is that the ordinary law applicable between man and man among private individuals should be applied here also. No doubt the interests of Government are the interests of the people and *vice versa*. In that sense, the interests of the Forest officers are the interests of the public. Apart from that wide sense, here, it is really a question of one proprietor against another. The Government is one proprietor, i. e., the proprietor of the forest and the people, another. If this is so, why should one proprietor be exempted from damages because he acts in good faith? I submit that a public servant should not be exempted simply because he acts in good faith. If his acts are justifiable under the law, he may be exempted from liability to damage."

Mr. Raman Tampi:—

"My friend Mr. Subba Aiyar brought forward all his present arguments at the time of introducing the Bill, and it was then submitted by most of us that the arguments were not convincing. To the challenge thrown out by Mr. G. Parameswaran Pillai regarding statistics to show whether there have been unnecessary and vexatious prosecutions or suits against public servants for acts done under the colour of the Forest Regulation, there has been no answer. Probably no such records exist. The right of the subject to sue Government and public servants has been long recognised in Travancore; and except for very valid reasons, this right should not be invaded. My friend Mr. Subba Aiyar says that in several other Regulations the provision exists. That is no reason why it should find a place in this Regulation as well, except for very substantial reasons. Under the new provision, every thing done by the officers in good faith is protected. In all such cases, whether a particular thing has been done in good faith, will always be a question of fact. The new Section, as it stands, bars any suits or proceeding against public servants. Who is to decide that a particular act done by a Government servant is done in good faith? That has always to be determined upon particular circumstances which have to be carefully scrutinised. Again, if it is found that a thing has not been done in good faith, the right of the subject ought to be protected. I certainly agree with Mr. Subba Aiyar in thinking that, considering the onerous duties cast upon public servants, they ought to be protected against vexatious suits and prosecutions. This is all right in the case of things done by them in good faith. But here, there is no provision made for suits in respect of things which were not done in good faith. The Section, as it is, bars all suits and prosecutions against public servants. To me, it appears to be a hard situation, and I think that the rights till now enjoyed by the people should not be taken away."

Mr. G. Parameswaran Pillai:—

"My friend Mr. Subba Aiyar complains that we have misunderstood the scope of the Section and insists and persists in his view of the law. With due deference to him, I may say that there may be wrongful acts, even though they have been done in good faith according to the public servants who do those acts, and even though they have been done under colour of the Regulation. My friend could certainly have no objection to the aggrieved party in such cases going to the Civil Court for remedy. The scope of the Section, as it is now put, is very wide. I would only appeal to my friend to recognise that we ought not only to safeguard the interests of the public servants and Government, but that it is equally essential that the interests of the public for whom the Government and the public servants exist should be alike safeguarded."

The amendment was put to the vote and lost.

Mr. Kayalam Parameswaran Pillai moved that the following Proviso be inserted at the end of the Section :—

"Provided that this Section shall not apply to or in respect of anything done or ordered to be done without jurisdiction or beyond the jurisdiction conferred by this Regulation."

In moving the above amendment, he said :—

"I am encouraged to move this amendment by your observations that only acts done by public servants in pursuance of the Regulation are exempt from liability to damages. If that is the intention, it may be made clear by the insertion of this Proviso. An act may be done under colour of the Regulation, but yet, if it is not justifiable under the Regulation, the doer ought not to be exempted from liability. A thing may be done under colour of a law, yet it may not be within the jurisdiction conferred by the law. In such cases, it is not necessary to give the officer any protection."

Seconded by Mr. G. Parameswaran Pillai.

Mr. Subba Aiyar :—

"I oppose the motion. In the first place, it restricts the scope of good faith. The Proviso applies only to cases where an officer acts without jurisdiction. Further, in all these matters, it will always be desirable to have uniformity of language in all the Regulations. Otherwise, much difficulty will arise as to the interpretation to be put on the wording. I do not think that we have put such a restriction in any other Regulation. This is a matter that has to be left to Courts for interpretation. I would therefore stick to the wording in the Bill. The words '*bona fide* and in pursuance of the Regulation' are sufficient, and there is no necessity for the Proviso."

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Kayalam Parameswaran Pillai:—

"This Section is borrowed from Section 73 of the Indian Forest Act. The wording in that Section is that 'no suit shall lie against any public servant for anything done by him in good faith under this Act.' Here we find the words 'in pursuance of' put in for the word 'under the Act' found in the Indian Act. Apparently, under the Indian Act, the act done must come within the provisions of that Act and if it is done beyond the provisions of the Act, the officer will not be protected, even though he might have acted in good faith. The amendment is therefore necessary."

The amendment was put to the vote and lost.

Mr. G. Parameswaran Pillai moved that the words "any public servant" be substituted for "Our Government or against any officer of Government" in lines 1 and 2 of the Clause.

Seconded by Mr. Adam Sait.

The amendment was accepted by the Council.

CLAUSE 23.

Mr. Raman Tampi, in moving that the words "not inferior in rank to that of an Assistant Conservator" be substituted for "drawing a salary of not less than one hundred Rupees' in lines 2 and 3 of Section 59 of the Regulation, said :—

"Section 59 of the Regulation empowers the Government to invest any Forest officer drawing not less than one hundred rupees with the powers of a Settlement Officer, the powers of a Civil Court in regard to attendance of witnesses and production of documents, and, the power to hold enquiry into Forest offences and to accept compensation in respect of Forest offences. Under this new Section as amended by the Clause, power is also given 'to enter upon any land or to survey, demarcate and make a map of the same.' In view of the larger powers proposed to be given under the Clause, I want to restrict that to important officers not inferior in rank to an Assistant Conservator. This is my amendment."

Seconde by Mr. G. Parameswaran Pillai.

Mr. Subba Aiyar accepted the amendment, and it was carried.

The consideration of the Bill being over, Mr. Subba Aiyar moved that the Bill, as settled by the Council, be finally read on a future day of which notice should be given.

Seconded by Mr. Raman Menon.

Carried.

THE PREVENTION OF JUVENILE SMOKING BILL.

Mr. Subba Aiyar presented the report of the Select Committee on the Prevention of the Juvenile Smoking Bill and moved that the report and the Bill be taken up for consideration at once.

Seconded by Mr. Rengaswami Aiyangar.

Carried.

Mr. Subrahmanya Pillai moved that the words, "Bill for the prevention of the use of tobacco by juveniles" be substituted for the words "The prevention of Juvenile Smoking Bill" in the title of the Bill.

Seconded by Mr. G. Parameswaran Pillai.

The amendment was accepted by Mr. Subba Aiyar and it was carried.

Mr. Subrahmanya Pillai moved that the words "the use of tobacco" be substituted for "smoking" in the preamble of the Bill.

Seconded by Mr. G. Parameswaran Pillai.

The amendment was accepted by Mr. Subba Aiyar and it was carried.

CLAUSE 1.

Mr. Subrahmanya Pillai moved that the words "the Regulation for the prevention of the use of tobacco by juveniles 109 " be substituted for "the prevention of Juvenile Smoking Regulation 109 " in sub-clause (1).

Seconded by Mr. G. Parameswaran Pillai.

The amendment was accepted by Mr. Subba Aiyar and it was carried.

The consideration of the Bill being over, Mr. Subba Aiyar moved that the Bill be read again on a future day of which notice should be given.

Seconded by Mr. Rengaswami Aiyangar.

Carried.

THE MUNICIPAL BILL.

CLAUSE 2.

Mr. Subba Aiyar:—

"Sir,

I had given notice of an amendment to delete 'and' between Proviso (ii) and Proviso (iii) and to add the following as Proviso (iv) :—

'and notwithstanding anything contained in the said Regulation, all Presidents, Vice-Presidents and Councillors shall vacate office from such date as may be notified by Our Government in Our Government Gazette.'

I do not want the amendment in the above form ; and I propose to move another amendment by which a new Clause will be added at the end of the Bill and of which notice has been given to-day. I therefore beg to withdraw the above amendment."

LIBRARY ARCHIVES Kerala Legislative Assembly